

UNITED STATES DISTRICT
COURT OF DELAWARE

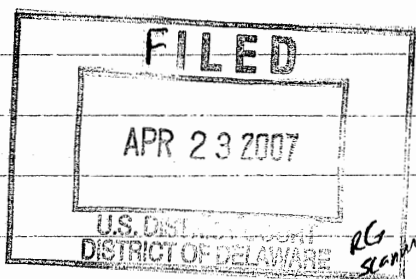
CASE NO. 1:06-CV-46 JJF

DATED: 04/19/07

Dear Clerk:

I SENT A COPY OF THE NOTICE OF APPEAL I RECENTLY FILED IN YOUR COURT TO THE DEFENDANTS, HARRINGTON POLICE DEPT. AND A. SCOTT DAVIS. THE COPY WAS SENT BACK TO ME (SEE ATTACHED ENVELOPE WITH COPY).

I ASSUME THAT MY ANSWER TO THE DEFENDANT RESPONSE WILL BE SENT BACK TO ME AS WELL. I SENT THE DEFENDANT'S COPY THE SAME DAY I SENT THE ANSWER TO THE COURT. THE ADDRESS I HAVE OF THE DEFENDANT IS THE ONE ON THE ENVELOPE.



Sincerely,
Ricardo A. De los Santos M.
#27615-083
UNITED STATES PENITENTIARY
P.O. Box 150160
ATLANTA, GA 30315

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICARDO A. DE LOS SANTOS MORA
Plaintiff/Appellant,

V.

Civil No.06-46-JJF

A. SCOTT DAVIS, HARRINGTON POLICE
DEPT. and M. JANE BRADY,
Defendants/Appellees.

NOTICE OF APPEAL TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT

Comes now the appellant, Ricardo De Los Santos Mora, hereinafter "appellant" and in support of his Notice of Appeal hereby states as follows:

This matter is on direct appeal to the United States Court of Appeals for the Third Circuit. The district court erroneously dismissed appellant complaint under 28U.S.C. § 1350 on March 30, 2007. The court below granted defendant motion to dismiss for fail to state a claim upon which relief can be granted.

JURISDICTION

For jurisdiction to vest under 28 U.S.C. § 1350 three elements must be present: (1) claim must be made by aliens, (2) it must be for tort, (3) tort must be in violation of the law of nations or treaties of the United States, HANACH TEL. OREN V. LIBYAN ARAB REPUBLIC, (1981, DC Dist. Col.) 517 F.supp 542, and (1984 App DC)

233 US App DC 384.

STATEMENT OF CASE

Appellant filed a complaint under 28 U.S.C. § 1350 and named three (3) defendants: arresting police officer A. Scott Davis, Harrington Police Dept., and M. Jane Brady, former Att. General. Appellant argues that these Delaware officials failed to advise him of his right under Article 36 (1)(b) of the Vienna Convention during a period of eleven (11) months that appellant was held in jail, wrongly accused of a crime in 1995. This wrongful act by these officials caused appellant Mora much stress and pain. The police officer, Police Dept., and Attorney General are to be responsible for their negligence in this case.

At the time of the arrest, appellant Mora did not speak the English language. Even after noting Mora's disability of understanding English, these officials failed to inform Mora of his Vienna Convention rights.

On appeal, appellant will show that: (1) jurisdiction is proper under 28 U.S.C. § 1350, 1331, and 42 U.S.C. § 1983; also, appellant has the right to sue government officials under these statutes. (2) appellant has an individual right under Article 36 (1)(b) of the Vienna Convention; (3) immunity does not apply in this case, even if M. Jane Brady has immunity, the other defendants do not; (4) appellant complaint is timely filed, as the court below noted. And if would had been filed under 42 U.S.C. § 1983, equitable tolling apply in this case since appellant English was/is limited and could not find no one in the prison library to translate legal materials for him from English to Spanish.

The United States Court of Appeals for the Seventh Circuit held March 12, 2007 that foreign national arrested in the United States has an individually right to sue government officials under 42 U.S.C. § 1983 for failing to advise him of his right under the Vienna Convention of consular Relations to contact his home country's consulate JOGI V. VOGES, 7th Cir. No. 01-1657, 2007 WL 7370550, replacing 425 F.3d 367, 78 CRL 7.

MONETARY DAMAGE

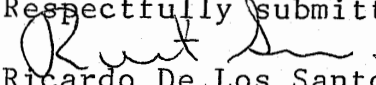
Monetary damage is proper in this case for the wrongful act and negligence by the Delaware officials. Mora is seeking damage for the sum of 1 million dollar.

CERTIFICATE OF SERVICE

I, Ricardo A. De Los Santos Mora, certify that I caused to mail this notice of appeal to the United States Court of Appeals for the Third circuit to the Clerk of the District Court of Delaware, and I mailed a copy to the defendants/appellees in this case, after first placed in the prison mail box this 10 day of April 2007.

Parties: A. Scott Davis,
Harrington Police Dept.
P.O.BOX 236
Harrington, DE 19952

Linda M. Carmichael
Deputy Att. General
Carvel State Office
Building 820 North French ST.
Wilmington, DE 19801

Respectfully submitted,

Ricardo De Los Santos M.
27615-083
United States Penitentiary
P.O.Box 150160
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UNITED STATES PENITENTIARY #27615-083
P.O. BOX 150160
ATLANTA, GEORGIA 30315

D325

ATLANTA GA 303

09 APR 2007 PM 2 T



To: Harrington Police Dept.

P.O. Box 236

Harrington Delaware

A ☐ INSUFFICIENT ADDRESS
C ☐ ATTEMPTED NOT KNOWN
S ☐ NO SUCH NUMBER/ STREET
☒ NOT DELIVERABLE AS ADDRESSED
- UNABLE TO FORWARD

RTS
RETURN TO SENDER

30301-0044-44 105236



Picardo Delos Santos
UNITED STATES PENITENTIARY #2765-083
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ATLANTA GA 303

19 APR 2007 PM 8 L



To: Office of the Clerk
United States District Court
844 N. King Street
Lockbox 18
Wilmington, Delaware
19801-3570

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